



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): 8/13/2020
 ORM Number: SAJ-2014-01971
 Associated JDs: Preliminary JD dated October 14, 2016; Preliminary JD only for WET J dated August 12, 2020.
 Review Area Location¹: State/Territory: FL City: Parrish County/Parish/Borough: Manatee
 Center Coordinates of Review Area: Latitude 27.590774° Longitude -82.40503°

II. FINDINGS

- A. Summary:** Check all that apply. At least one box from the following list MUST be selected. Complete the corresponding sections/tables and summarize data sources.
- The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
 - There are “navigable waters of the United States” within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
 - There are “waters of the United States” within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
 - There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A.	N/A.	N/A.	N/A.

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters): ³			
(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
N/A.	N/A.	N/A.	N/A.

Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
N/A.	N/A.	N/A.	N/A.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):			
(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination
N/A.	N/A.	N/A.	N/A.

Adjacent wetlands ((a)(4) waters):			
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
N/A	N/A	acre(s)	N/A

¹ Map(s)/figure(s) are attached to the AJD provided to the requestor.
² If the navigable water is not subject to the ebb and flow of the tide or included on the District’s list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.
³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.



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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
WET A	8.78 acre(s)	(b)(1) Non-adjacent wetland.	The wetland is physically remote and hydrologically isolated from (a)(1)-(a)(3) waters. This wetland is surrounded by uplands and roads and does not abut an (a)(1)-(a)(3) water; is not inundated by flooding by an (a)(1)-(a)(3) water in a typical year; is not physically separated from an (a)(1)-(a)(3) water only by a natural feature; and is not physically separated from an (a)(1)-(a)(3) water by an artificial barrier which allows for direct surface connection between the wetland and water in a typical year.
WET B	0.15 acre(s)	(b)(1) Non-adjacent wetland.	The wetland is physically remote and hydrologically isolated from (a)(1)-(a)(3) waters. This wetland is surrounded by uplands and does not abut an (a)(1)-(a)(3) water; is not inundated by flooding by an (a)(1)-(a)(3) water in a typical year; is not physically separated from an (a)(1)-(a)(3) water only by a natural feature; and is not physically separated from an (a)(1)-(a)(3) water by an artificial barrier which allows for direct surface connection between the wetland and water in a typical year.
WET C	3.31 acre(s)	(b)(1) Non-adjacent wetland.	The wetland is physically remote and hydrologically isolated from (a)(1)-(a)(3) waters. This wetland is surrounded by uplands and does not abut an (a)(1)-(a)(3) water; is not inundated by flooding by an (a)(1)-(a)(3) water in a typical year; is not physically separated from an (a)(1)-(a)(3) water only by a natural feature; and is not physically separated from an (a)(1)-(a)(3) water by an artificial barrier which allows for direct surface connection between the wetland and water in a typical year.
WET D	4.24 acre(s)	(b)(1) Non-adjacent wetland.	The wetland is physically remote and hydrologically isolated from (a)(1)-(a)(3) waters. This wetland is surrounded by uplands and does not abut an (a)(1)-(a)(3) water; is not inundated by flooding by an (a)(1)-(a)(3) water in a typical year; is not physically separated from an (a)(1)-(a)(3) water only by a natural feature; and is not physically separated from an (a)(1)-(a)(3) water by an artificial barrier which allows for direct

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
			surface connection between the wetland and water in a typical year.
WET E	0.32	acre(s)	(b)(1) Non-adjacent wetland. This wetland is surrounded by uplands and a road, and shares a surface connection with a non-jurisdictional ditch (OSW 1). The wetland does not abut an (a)(1)-(a)(3) water; is not inundated by flooding by an (a)(1)-(a)(3) water in a typical year; is not physically separated from an (a)(1)-(a)(3) water only by a natural feature; and is not physically separated from an (a)(1)-(a)(3) water by an artificial barrier which allows for direct surface connection between the wetland and water in a typical year.
WET F	10.18	acre(s)	(b)(1) Non-adjacent wetland. This wetland is surrounded by uplands and shares a surface connection with non-jurisdictional ditches (OSWs 3, 4, 5, 6). The wetland does not abut an (a)(1)-(a)(3) water; is not inundated by flooding by an (a)(1)-(a)(3) water in a typical year; is not physically separated from an (a)(1)-(a)(3) water only by a natural feature; and is not physically separated from an (a)(1)-(a)(3) water by an artificial barrier which allows for direct surface connection between the wetland and water in a typical year.
WET I	1.43	acre(s)	(b)(1) Non-adjacent wetland. The wetland is physically remote and hydrologically isolated from (a)(1)-(a)(3) waters. This wetland is surrounded by uplands and does not abut an (a)(1)-(a)(3) water; is not inundated by flooding by an (a)(1)-(a)(3) water in a typical year; is not physically separated from an (a)(1)-(a)(3) water only by a natural feature; and is not physically separated from an (a)(1)-(a)(3) water by an artificial barrier which allows for direct surface connection between the wetland and water in a typical year.
WET L	0.30	acre(s)	(b)(1) Non-adjacent wetland. The wetland is physically remote and hydrologically isolated from (a)(1)-(a)(3) waters. This wetland is surrounded by uplands and does not abut an (a)(1)-(a)(3) water; is not inundated by flooding by an (a)(1)-(a)(3) water in a typical year; is not physically separated from an (a)(1)-(a)(3) water only by a natural feature; and is not physically separated from an (a)(1)-(a)(3) water by an artificial barrier which allows for direct surface connection between the wetland and water in a typical year.
WET EEE	0.17	acre(s)	(b)(1) Non-adjacent wetland. This wetland is surrounded by uplands and a road and shares a surface connection under



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
				Wauchula Road with an upland-excavated ditch located off-site. The wetland does not abut an (a)(1)-(a)(3) water; is not inundated by flooding by an (a)(1)-(a)(3) water in a typical year; is not physically separated from an (a)(1)-(a)(3) water only by a natural feature; and is not physically separated from an (a)(1)-(a)(3) water by an artificial barrier which allows for direct surface connection between the wetland and water in a typical year.
OSW 1	1,074	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	This feature is a roadside ditch. Historical aerials and topo maps indicate the ditch was excavated in uplands and is not a relocated or altered natural tributary.
OSW 3	676	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	This feature is a ditch. Historical aerials and topo maps indicate the ditch was excavated in uplands and partially in non-adjacent wetlands and is not a relocated or altered natural tributary.
OSW 4	1,598	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	This feature is a ditch. Historical aerials and topo maps indicate the ditch was excavated in uplands and partially in non-adjacent wetlands and is not a relocated or altered natural tributary.
OSW 5	293	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the	This feature is a ditch. Historical aerials and topo maps indicate the ditch was excavated in uplands and is not a relocated or altered natural tributary.



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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
		conditions of (c)(1).	
OSW 6	469	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1). This feature is a ditch. Historical aerials and topo maps indicate the ditch was excavated in uplands and is not a relocated or altered natural tributary.

III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

- Information submitted by, or on behalf of, the applicant/consultant: [Maps, aerials, topo maps, NWI map](#)
This information **is and is not** sufficient for purposes of this AJD.
Rationale: [The Corps accessed additional resources to evaluate the JD request.](#)
- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)
- Photographs: [Aerial: Historical aerials \(1940, 1951\) from University of Florida Digital Collection \(<https://ufdc.ufl.edu/>\); aerials accessed in Google Earth Pro \(1995-2019\)](#)
- Corps site visit(s) conducted on: [Date\(s\).](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [SAJ-2014-01971: PJD dated Oct 14, 2016](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [Soil map obtained from <https://websoilsurvey.sc.egov.usda.gov/>](#)
- USFWS NWI maps: [NWI Map provided by applicant, dated May 18, 2020](#)
- USGS topographic maps: [1944 Parrish Topo \(provided by applicant\); current topo viewed in Google Earth by Earth Point](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS/WBD/NHD data/maps	NHD map obtained from https://viewer.nationalmap.gov/advanced-viewer/.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): [N/A.](#)

C. Additional comments to support AJD: [Historical aerial photos from 1940 and 1951, and topo map dated 1944 indicate that the ditches were excavated in uplands or partially in wetlands that would not have met](#)



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(a)(4) criteria at the time of excavation or currently; and did not alter or relocate any natural tributaries. WET EEE shares a surface connection with a ditch under Wauchula Road which travels south eventually reaching Gamble Creek. Available information indicates the ditch was excavated in uplands and is not a relocated or altered tributary. The rule states that if the evidence does not demonstrate that the ditch was located in a natural waterway, the ditch will be non-jurisdictional under this rule. These ditches are therefore excluded under the final rule.

As mentioned above, WET EEE shares a surface connection with ditches that hydrologically connect to a downstream tributary, Gamble Creek. The Rule is clear that a ditch cannot render an otherwise isolated wetland an adjacent wetland and thus jurisdictional on that basis, unless the ditch itself is a tributary. The final rule also does not allow for a “chain” of wetlands which may be connected hydrologically via groundwater, shallow subsurface flow, overland sheet flow, or non-wetland swales to be considered adjacent to each other or to a paragraph (a)(1) through (a)(3) water. Wetlands that exhibit this type of “fill and spill” scenario are not “adjacent wetlands” under the final rule if the wetlands can be delineated separately from each other, with upland or non-jurisdictional waters or wetlands between them. WET EEE is therefore excluded under the final rule.